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12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF ARIZONA**

14 **NATIONAL LABOR RELATIONS**  
15 **BOARD**

16 **Applicant,**

17 **v.**

18 **AMERICAN MEDICAL RESPONSE,**  
19 **INC.**

20 **Respondent.**

21 **Case No.**

22 **APPLICATION FOR ORDER TO**  
23 **SHOW CAUSE AND ORDER**  
24 **REQUIRING COMPLIANCE WITH**  
25 **SUBPOENA DUCES TECUM**  
26 **PURSUANT TO SECTION 11(2) OF**  
27 **THE NATIONAL LABOR**  
28 **RELATIONS ACT, AS AMENDED (29**  
**U.S.C. § 161(2))**

21 The National Labor Relations Board (the Board), an administrative agency of the  
22 Federal Government created pursuant to the National Labor Relations Act (the Act), 29  
23 U.S.C. §§ 151 - 169 (the Act), respectfully applies to this Honorable Court, pursuant to  
24 Section 11(2) of the Act, 29 U.S.C. § 161(2), for an Order requiring American Medical  
25 Response, Inc. (Respondent) to obey an Order issued by the Board on January 8, 2018,  
26 denying Respondent's Petition to Revoke subpoena duces tecum B-1-V77GZZ (the

1 subpoena) issued by the Board and served upon Respondent. In support of said  
2 Application, upon information and belief, the Board respectfully shows as follows:

3 (a) This Court has jurisdiction of the subject matter of the proceeding and of  
4 the Respondent by virtue of Section 11(2) of the Act, 29 U.S.C. § 161(2), in that the  
5 inquiry in aid of which the subpoena was issued is being carried on within this judicial  
6 district and also on the basis that the Respondent has an office and place of business  
7 within this judicial district.  
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10 (b) Pursuant to the provisions of Section 6 of the Act, 29 U.S.C. § 156, the  
11 Board has issued Rules and Regulations, Series 8, as amended (the Board's Rules)  
12 governing the conduct of its operations, which Rules have been duly published in the  
13 Federal Register, 24 Fed. Reg. 9095 (1959), as provided for in the Administrative  
14 Procedure Act, 5 U.S.C. § 552. This court may take judicial notice of the Board's Rules  
15 by virtue of 44 U.S.C. § 1507.  
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18 (c) Section 10(c) of the Act, 29 U.S.C. § 160(c), authorizes the Board, in  
19 furtherance of the broad Congressional purpose of promoting the free flow of commerce,  
20 to conduct an investigation upon the filing of an unfair labor practice charge and, if the  
21 Board finds that any person has engaged in or is engaging in any unfair labor practice, to  
22 issue and cause to be served upon such person a complaint stating the charges in that  
23 respect and directing a hearing before the Board.  
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26 (d) On November 16, 2016, the General Teamsters (Excluding Mailers), State  
27 of Arizona, Local Union No. 104, an affiliate of the International Brotherhood of  
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1 Teamsters (the Union) filed the charge in Case 28-CA-188389 (the charge), alleging that  
2 the Employer violated Section 8(a)(1) and (3) of the Act, 29 U.S.C. § 158(a)(1) and (3),  
3 by interfering with, restraining and coercing its employees in the exercise of the rights  
4 guaranteed in Section 7 of the Act, including but not limited to, discriminating against its  
5 employees, including but not limited to, discharging its courier employees James Howard  
6 (Howard), Tom Hussey (Hussey), and Randy Medeiros (Medeiros) (collectively, the  
7 couriers), because they engaged in concerted activities and union activities. Additionally,  
8 the charge alleged that the Employer violated Section 8(a)(5) of the Act, 29 U.S.C. §  
9 158(a)(1) and (5), by making unilateral changes in wages, hours and terms and conditions  
10 of employment without notifying the Union or giving the Union the opportunity to  
11 meaningfully bargain over the effects, after the Union requested voluntary recognition  
12 and established a majority support, when the above-named Employer outsourced the jobs  
13 of the couriers and shut down the unit. (See App. Exh. A)

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15 (e) On January 30, 2017, Cornele A. Overstreet, Regional Director of Region  
16 28 (Regional Director) of the Board, on behalf of the Board, issued the subpoena, and, on  
17 January 31, 2017, personally served it on Respondent, with a courtesy copy to  
18 Respondent's counsel by e-mail, all in the manner and form provided for in Section 11(1)  
19 of the Act, 29 U.S.C. § 161(1), and in Section 102.31(a) of the Rules. (See App. Exh. B)

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21 (f) On February 6, 2017, Respondent filed a Petition to Revoke Subpoena  
22 Duces Tecum No. B-1-V77GZZ (Petition to Revoke). (See App. Exh. C)  
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1 (g) On February 28, 2017, the Board agent filed an Opposition to Respondent's  
2 Petition to Revoke. (See App. Exh. D)

3 (h) On January 8, 2018, the Board issued an Order denying Respondent's  
4 Petition to Revoke in its entirety (the Board Order). (See App. Exh. E)

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6 (i) On January 8, 2018, the Board agent e-mailed Respondent's counsel,  
7 attaching a copy of the Board Order, requesting Respondent produce responsive  
8 document's to the subpoena, as required by the Board Order, by 4:45 p.m. (Phoenix local  
9 time) on January 16, 2018. (See App. Exh. F) To date, Respondent has not produced any  
10 documents responsive to the subpoena, as required by the Board Order.  
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12 (j) There is reasonable cause to believe that Respondent is deliberately evading  
13 its duty to produce responsive documents as required and directed by the subpoena  
14 served upon it and the Board Order in Case 28-CA-188389. The failure of Respondent to  
15 provide documents responsive to the subpoena constitutes contumacious conduct within  
16 the meaning of Section 11(2) of the Act, 29 U.S.C. § 161(2), which conduct has impeded  
17 the Board in the investigation of the matters before it, and has prevented the Board from  
18 carrying out its duties and functions under the Act.  
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21 (k) This Application is made by Order to Show Cause rather than by ordinary  
22 motion because the Board's duty to investigate the unfair labor practices alleged in the  
23 charge has been hindered as a result of Respondent's contumacious conduct of refusing  
24 to comply with the subpoena, as required by the Board Order. It is necessary to the  
25 orderly administration of the Act that the interference and delay caused by such action of  
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Respondent be kept to a minimum and that the more expeditious procedure by Order to Show Cause be utilized.

WHEREFORE, the Applicant, National Labor Relations Board, respectfully prays:

(1) that an Order to Show Cause issue directing Respondent to appear before this Court on a date certain, to be fixed in said Order, and that it show cause, if any there be, why an Order should not issue directing it to provide documents responsive to the subpoena as required by the Board Order dated January 8, 2018, in connection with a certain proceeding now pending before the Board, to wit: *American Medical Response, Inc.*, Board Case 28-CA-188389, pursuant to Section 10 of the National Labor Relations Act, as amended, 29 U.S.C. § 160;

(2) that upon the return of the Order to Show Cause, an Order issue out of this Court requiring Respondent, within one week of issuance of said Order, to provide documents responsive to the subpoena as required by the Board Order dated January 8, 2018, in connection with a certain proceeding now pending before the Board, to wit: *American Medical Response, Inc.*, Board Case 28-CA-188389; and

(3) that the Applicant, the National Labor Relations Board, be granted such other and further relief as may be necessary and appropriate.

No previous application has been made for the relief sought herein.

Dated at Phoenix, Arizona, this 31<sup>st</sup> day of January 2018.

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NATIONAL LABOR RELATIONS BOARD

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